

General Information Letter: The foreign tax credit allowed may not exceed the amount of Illinois income tax imposed on the income that is actually double taxed.

August 21, 2000

Dear:

This is in response to your letter dated July 19, 2000. Given the nature of your inquiry and the information you provide, I am responding with a General Information Letter. This is not to be taken as a statement of Department policy or as a binding ruling by the Department. As general information gathered in response to your particular questions, however, I hope that it is helpful to you. See 86 Ill. Adm. Code 1200.120(b) and (c), which can be obtained at the following website:

<http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter you have stated the following:

This letter is in response to an Error Notice Response received from Revenue Tax Specialist II, John McAvoy. The problem arises from the instructions for the Illinois Schedule CR, Credit for Taxes Paid to Other States.

Per the instructions for Schedule CR, Step 2, line 2, column B, "For Illinois purposes, 'base income in the other state' means your federal adjusted gross income plus or minus any additions or subtractions that would make the income in that state comparable to Illinois base income. For residents, the base income in the other state is comparable to the amount on Form IL-1040, Line 11." By following these instructions, the base income should be equivalent to line 5(sic) of Missouri form MO-1040. This is also the method used on another schedule CR which was prepared by the Department of Revenue in 1998.

It appears that Mr. McAvoy's letter contradicts the procedures we were told to follow last year and those in the "Specific Instructions." This is obviously an important issue and needs further clarification by the Department of Revenue.

If the procedures for completing Schedule CR are different than those listed in the instructions, the "Specific Instructions" should be revised.

It is also our opinion that if the tax returns are to remain as adjusted by the Illinois Department of Revenue, all penalty and interest associated with the CR's should be removed. It would be unethical to charge a taxpayer penalty and interest when they followed the "Specific Instructions for the schedule in question.

We appreciate your time in looking at this matter and await your reply.

Response

It appears that your letter misstates the line number on the Missouri 1040 that would be the equivalent to the IL-1040, line 11. Line 15 on the Missouri form is entitled "Missouri adjusted gross income" and this would correspond to Illinois Base Income. Line 5 on the Missouri form is wholly unrelated.

Your client's Missouri salary is shown on his W-2 from xxxxxxxxxxxxxxxxxxxx as \$116,097.22. This was the figure you used on the Schedule CR. Unfortunately, that figure cannot be the correct figure for Step 2, Line 2, because his entire Illinois Base Income was only \$91,988.00. Only an amount that is included in Illinois Base Income can be credited for tax paid in another state. Please see Line 4 in Step 2 on the CR.

In fact, your client used a \$60,494.00 farm loss to arrive at the amount taxable in Missouri. That brought his Missouri adjusted gross income down to \$60,370.00, the figure on line 15 of the Missouri form. None of his wife's income was Missouri income, so the proper figure to be used on the Illinois Schedule CR, Step 2, Line 2 Column B was the amount of his income that was taxed by Missouri, \$60,370.00. He received a refund from Missouri for the amount withheld from his full salary that was not taxed because of the farm loss subtraction. He cannot receive this refund again from Illinois, which would have been the effect of accepting his original Schedule CR figures.

Please do not hesitate to call me at (217) 782-2844 if you have further questions. As stated above, this is a general information letter that does not constitute a statement of policy that applies, interprets or prescribes tax law. It is not binding on the Department as a definitive statement of law. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Sincerely,

Kent R. Steinkamp
Staff Attorney -- Income Tax